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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,305	11/02/2005	Ludger Graute	KKRT-00601-NUS	4991
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MATTHIAS SCHOLL 14781 MEMORIAL DRIVE SUITE 1319 HOUSTON, TX 77079				
EXAMINER				
LUGO, CARLOS				
ART UNIT		PAPER NUMBER		
3673				
NOTIFICATION DATE		DELIVERY MODE		
03/11/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTORECEIPT@GMAIL.COM
IPRECEIPT@GMAIL.COM

Office Action Summary

Application No.

10/555,305

Applicant(s)

GRAUTE ET AL.

Examiner

CARLOS LUGO

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. In view of the appeal brief filed on January 21, 2009, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) File a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Patricia L Engle/

Supervisory Patent Examiner, Art Unit 3673

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a

patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. **Claims 11-36 are rejected** on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 17 of U.S. Patent No.

7,413,224. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Claims 11-36 of the instant application requires a lever comprised of a basic lever and lever element(s), wherein one of the lever elements is a separate part that is attached to the basic lever. This limitation is presented in at least claim 17 of the '224 patent, since the claim requires a lever comprised of a basic lever (5) having a lever element (17) as separate members attached by a weld.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. **Claims 11-36 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 11, 20 and 29 recites that the basic lever is used for performing an actuation function and the one or more lever elements for performing one or more actuating functions.

However, the limitation makes unclear what the applicant is trying to claim as his invention. What are the actuating functions? And in which environment (lock system)? The claims are BROAD. Therefore, in order to continue with the examination, the claims would be given a broad interpretation. Appropriate correction IS required.

Further, the applicant is reminded that the use of reference characters is to be considered as having no effect on the scope of the claims. However, the claims require one or more additional levers (2, 3) separate from and connected to the basic lever (1). This makes the claims indefinite since lever 3 is not separate from the basic lever; the lever and the basic lever are formed together. Appropriate correction and/or explanation are required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 11-28 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 4,739,896 to Moss.

Moss discloses a "multifunctional" lever comprising a basic lever (32) and lever element(s) (30, 52). The basic lever and the one or more lever elements are capable of performing an actuating function. The basic lever and the lever elements are made of one of the group consisted of metal, plastic or a combination of metal and plastic. Moss further discloses that the basic lever (32) and one of the lever elements (30) are separate parts connected together (Col. 5 Lines 39-52).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 11-36 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,641,184 to Erices et al (Erices '184) in view of US Pat No 4,739,896 to Moss.

Erices '184 discloses a "multifunctional" lever comprising a basic lever (5) and lever elements (5', 10 and 16). The "multifunctional" lever is used in combination with a door latch comprising a claw (3) and a pawl (4). The basic lever and the one or more lever elements are capable of performing an actuating function. The basic lever and the lever elements are made of one of the group consisted of metal, plastic or a combination of metal and plastic. The basic lever and the lever elements have the same axis of rotation (20) and are mechanically actuated achieved by a driving wheel (9) of a motor driven device (6).

However, Erices '184 fails to disclose that one of the lever elements is a separate member connected to the basic lever.

Moss teaches that it is well known in the art to provide lever comprised of a basic lever (32) and one or more lever elements (30 and 52). The basic lever and at least one lever element (30) are separate parts. Further, the basic lever and the lever element are rigidly and inseparably connected to the basic lever (by welding).

The fact that the connection is either a rivet, a weld, a bolt, a clip, a snap-fit, a weld or glue is considered as a design consideration within the art that has no patentable weight.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the "multifunctional" lever described by Erices '184 as separate elements connected together, as taught by Moss, since separate elements connected together instead of a one-piece embodiment, is a design consideration within the skill of the art.

Response to Arguments

10. Applicant's arguments filed on November 24, 2008 and January 21, 2009 with respect to the 112 rejection have been considered but they are not persuasive. The 112 rejection is maintained.

However, a new rejection has been made on the record in view of Moss and in view of Erices, as modified by Moss. The previous rejection to the claims in view of Erices, as modified by Tatsuhiro, has been withdrawn.

Also, a double patenting rejection has been made on the record. A terminal disclaimer is required in order to overcome the rejection.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARLOS LUGO whose telephone number is (571)272-7058. The examiner can normally be reached on 10-7pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carlos Lugo/
Primary Examiner
Art Unit 3673

March 5, 2009.